

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

DAVID UNDERWOOD, #43538-112,

Plaintiff,

v.

**J.WILSON, Lieutenant at FCI
Seagoville, et al.,**

Defendants.

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Civil Action No. **3:14-CV-0376-L**

ORDER

Before the court is Plaintiff David Underwood's ("Plaintiff") *pro se* Complaint, filed January 17, 2014.* This case was originally filed in the Eastern District of Texas and was transferred to the Northern District of Texas on January 29, 2014. This case was referred to Magistrate Judge Renee Harris Toliver on January 30, 2014. The magistrate judge entered Findings, Conclusions, and Recommendation of the United States Magistrate Judge ("Report") on March 27, 2014, recommending that Plaintiff's Complaint be dismissed. Plaintiff filed two objections on April 8, 2014.

The magistrate judge recommended that the complaint be summarily dismissed with prejudice (1) as time barred; (2) as frivolous; and (3) for failure to state a claim upon which relief can be granted. Plaintiff first objects to the magistrate judge's determination that his complaint is time barred. Plaintiff contends that his administrative exhaustion proceedings toll the limitation period. The magistrate judge, however, directly addressed this issue in the Report. Even though a prisoner's administrative exhaustion proceedings toll the limitation's period, none of Plaintiff's

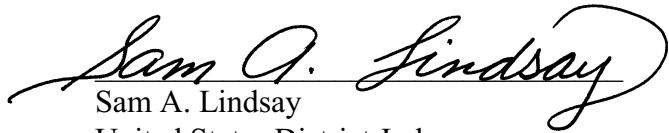
* Plaintiff is proceeding *in forma pauperis*.

administrative requests and appeals related to the conspiracy claims at issue in the complaint. Plaintiff's objection is therefore **overruled**.

Second, Plaintiff objects to the magistrate judge's determination that he failed to state a claim upon which relief can be granted. Plaintiff contends that he clearly stated a claim that states all the essential facts to proceed against Defendants. The court agrees with the magistrate judge's determination, and Plaintiff's second objection is **overruled**.

Having reviewed the pleadings, file, and record in this case, and the findings and conclusions of the magistrate judge, the court **accepts** the magistrate judge's findings and conclusions as those of the court. Accordingly, the court **dismisses with prejudice** Plaintiff's Complaint. Pursuant to Rule 58(a) of the Federal Rules of Civil Procedure, the court will enter judgment by separate document.

It is so ordered this 30th day of April, 2014.


Sam A. Lindsay
United States District Judge